

EXHIBIT K

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL ACTION
vs. :
DAMILARE SONOIKI : NO. 18-368-1

PHILADELPHIA, PENNSYLVANIA

SEPTEMBER 19, 2018

FILED

OCT - 9 2018

KATE BACHMAN, Clerk
By 78 Dep. Clerk

BEFORE: THE HONORABLE GENE E.K. PRATTER, J.

CHANGE OF PLEA HEARING

APPEARANCES:

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(Transcript produced by machine shorthand via C.A.T.)

ORIGINAL

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1 alleged conspirator showed a unity of purpose and the intent
2 to achieve a common goal or objective, in this case, to commit
3 an offense against the United States; and that at some time
4 during the existence of the agreement or conspiracy, at least
5 one of its members performed an overt act in order to further
6 the objectives of the agreement.

7 With respect to securities fraud that's charged in
8 Count Two, the Government must prove the following: The
9 Government must prove that the defendant did any one or more
10 of the following as charged in the Information:

11 A, knowingly employed a device, scheme, or artifice
12 to defraud;

13 B, knowingly made an untrue statement of a material
14 fact, or omitted to state a material fact necessary in order
15 to make the statements made, in light of the circumstances
16 under which they were made, not misleading; or,

17 C, knowingly engaged in a transaction, practice, or
18 course of business that operated or would operate as a fraud
19 and deceit on any person;

20 Two, The defendant did so in connection with the
21 purchase or sale of a security;

22 Three, in connection with the purchase or sale of a
23 security, the defendant made use of or caused the use of any
24 means or instrumentality of interstate commerce, or of the
25 mails, or of any facility of any national securities exchange;

1 Four, the defendant acted knowingly, wilfully, and
2 with the intent to defraud.

3 With respect to the factual basis if this case were
4 to go to trial, the Government would prove the following
5 facts:

6 Records from an investment bank show that from
7 July 2013 to May 2015, the defendant, Damilare Sonoiki, worked
8 in the technology group at the investment bank in New York,
9 New York. As a member of the group, he had access to
10 information about pending acquisition deals when the
11 investment bank represented either the acquirer or the target.

12 Sometime prior to July 2014, the defendant met the
13 codefendant, Mychal Kendricks, through a mutual friend. Mr.
14 Kendricks knew the defendant worked for an investment bank and
15 the defendant offered information to Mr. Kendricks.

16 The first deal for which the defendant shared
17 material nonpublic information with Mr. Kendricks involved
18 Compuware, an investment bank client that, according to
19 records from the investment bank, was in talks to be acquired
20 by Thoma Bravo, private equity firm. Phone records show that
21 on July 14, 2014, the defendant texted Mr. Kendricks, "Got
22 something for us." Records from OptionsXpress, which is a
23 service of the Charles Schwab Corporation, which itself is a
24 bank and brokerage firm based in San Francisco, California --
25 OptionsXpress provided customers with an electronic trading

1 platform for investing in financial instruments, specializing
2 in the trading of options contracts. The records from
3 OptionsXpress showed that a few days later on July 19, 2014,
4 Mr. Kendricks opened an account at OptionsXpress. Mr.
5 Kendricks opened the account at 7:36 a.m. The notes section
6 of Mr. Kendricks' telephone shows the note with title CPWR
7 created at 8:05 a.m. CPWR is the ticker symbol for Compuware.
8 At the time that Mr. Kendricks opened the account, he was a
9 resident of Philadelphia, Pennsylvania.

10 Bank and brokerage records show that on July 26,
11 2014, Mr. Kendricks transferred \$80,000 from his brokerage
12 account at UBS to his Wells Fargo account and then to his
13 OptionsXpress account. Phone records show texts from Mr.
14 Kendricks to the defendant the same day saying, "Yo, so the 80
15 is there."

16 On July 30, 2014, the defendant made the first
17 Compuware call options purchases from his computer in New
18 York. He purchased options in Mr. Kendricks' account.
19 Brokerage records show that Mr. Kendricks purchased additional
20 call options for Compuware on August 1st, August 4th, August
21 5, and August 15, 2014.

22 On September 2nd, after Mr. Kendricks purchased the
23 options, Compuware announced publicly that it was acquired by
24 a private company, leading to a significant increase in the
25 value of the options that Mr. Kendricks had purchased. Mr.

1 Kendricks sold his options at a net profit of \$78,423.

2 The next deal for which Mr. Sonoiki provided
3 material nonpublic information to Mr. Kendricks involved Move,
4 Inc. By early 2014 -- September 2014, investment bank records
5 showed that Move was in discussions with News Corporation
6 regarding a merger deal. The investment bank represented News
7 Corporation in the transaction. By this time, however,
8 OptionsXpress had put a freeze on Mr. Kendricks' account
9 because having seen the IP address of Mr. Sonoiki in New York,
10 OptionsXpress suspected that there was an unauthorized person
11 making trades. OptionsXpress contacted Mr. Kendricks by
12 e-mail three times in August, but Mr. Kendricks did not
13 respond. Having learned from Mr. Sonoiki of the opportunity
14 to purchase Move options, Mr. Kendrick called OptionsXpress on
15 September 5th -- excuse me, September 5, 2014, on a line
16 recorded by OptionsXpress in order to have that block lifted.
17 Brokerage records showed Mr. Kendricks began purchasing Move
18 call options on September 8 after the trading restriction was
19 lifted by OptionsXpress. Phone records show numerous calls
20 between Kendricks and the defendant in this time period.
21 Phone records also show significant contacts between Mr.
22 Sonoiki and Person Number One, who, according to text
23 messages, acted on Mr. Kendricks' behalf to make trades in Mr.
24 Kendricks' OptionsXpress account. The News Corporation
25 acquisition of Move was announced on September 30, 2014. Mr.

1 Kendricks then sold his open options contracts at a net profit
2 of \$278,701.

3 The last two companies about which the defendant
4 provided material nonpublic information to Mr. Kendricks and
5 Person Number One were Sapient and Oplink. Mr. Kendricks'
6 account began trading in Sapient on October 26, 2014. At this
7 time, investment bank records show that Sapient was in
8 discussions with Publicis Corporation regarding a merger deal.
9 The investment bank represented Sapient in this transaction.
10 Mr. Kendricks' account purchased call options in Sapient
11 between October 6 and October 14, 2014. Phone records show
12 the defendant had contact with both Mr. Kendricks and Person
13 Number One during this period. On November 3rd, the merger
14 was announced, and subsequent to that, Mr. Kendricks sold all
15 his options at a net profit of \$489,079.

16 In October 2014, Oplink was in discussions with
17 Molex, a subsidiary of Koch Industries, regarding a merger
18 deal. The investment bank represented Molex and Koch
19 Industries in this transaction. Brokerage records show that
20 Mr. Kendricks' account purchased call options between
21 October 31 and November 17, 2014. Phone records show that Mr.
22 Sonoiki called Person Number One six times on October 30,
23 2014. On October 31st, Mr. Sonoiki called Person Number One,
24 he also called it three times, and called Mr. Kendricks once
25 before Mr. Kendricks' account made the first purchase of